

**MINUTES OF THE
GOVERNMENT OPERATIONS INTERIM COMMITTEE**
Tuesday, November 9, 2005 – 9:00 a.m. – Room W130 House Building

Members Present:

Rep. Douglas G. Aagard, House Chair
Sen. Parley Hellewell, Senate Chair
Sen. Brent H. Goodfellow
Sen. Lyle W. Hillyard
Rep. Roger E. Barrus
Rep. DeMar "Bud" Bowman
Rep. Craig W. Buttars
Rep. Tim M. Cosgrove
Rep. Glenn A. Donnelson
Rep. Neal B. Hendrickson
Rep. Eric K. Hutchings
Rep. Mark W. Walker

Members Absent:

Sen. Dan R. Eastman
Rep. Patrick L. Painter
Rep. Mark A. Wheatley

Staff Present:

Mr. Benjamin N. Christensen, Policy Analyst
Mr. Eric N. Weeks, Associate General Counsel
Ms. Brooke Ollerton, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Aagard called the meeting to order at 9:10 a.m.

MOTION: Rep. Bowman moved to approve the minutes of the October 19, 2005 meeting. The motion passed unanimously, with Rep. Buttars absent for the vote.

2. Repeal of Utah Digital Signature Act (Draft Legislation)

Sen. Hillyard explained the reasons for the Repeal of the Utah Digital Signature Act. He asked for Sen. Hellewell and Sen. Goodfellow to be listed as cosponsors on the bill.

Ms. Kathy Berg, Director, Division of Corporations, clarified that no one has used the certification agent registration for three years. Originally there were some certification agents, but under federal law they do not have to register.

Ms. Fran Fish, Director, Notary Public and Authentication Office, spoke in support of the legislation.

MOTION: Sen. Hillyard moved to adopt "Repeal of Utah Digital Signature Act" as a committee recommended bill. The motion passed unanimously.

Chair Aagard yielded the chair to Sen. Hellewell.

3. GRAMA (Government Records Access and Management) Task Force–Final Report (Draft Legislation)

Rep. Aagard and Sen. Thomas distributed and explained the "Final Report" of the GRAMA Task Force, which included three bills recommended by the Task Force.

Rep. Aagard reported that last session HB 75 created the GRAMA Task Force to review and update GRAMA. He reviewed "Assigned GRAMA Issues" in the GRAMA "Final Report-2005." He read some of the intent language of GRAMA, which recognizes two constitutional rights: the public's right of access to information concerning the conduct of the public's business and the right of privacy in relation to personal data gathered by government entities. He explained the amendments the Task Force adopted.

Sen. Thomas explained the definition of "in connection with the conduct of the public's business." He said that the Task Force addressed the problem by categorizing communications as either related to the conduct of the public's business or not.

Rep. Aagard said that the presumption in GRAMA when a doubt arises is that the record is public. He explained deliberations and changes made in the draft legislation titled "Amendments to Government Records Access and Management Act." The Task Force added the classification of a "protected" record and established that correspondence between a citizen and his/her legislator will be protected unless one of the parties wants to make the record public. The Task Force believed that this clarification would encourage citizen participation.

The committee members asked questions of Sen. Thomas and Rep. Aagard regarding GRAMA.

Mr. Weeks explained that communication between legislators is classified as "protected," under the proposed language, which is the default classification. However, the requester has the right to appeal and request public release of a "protected" document.

Sen. Hellewell asked if all e-mails were protected.

Sen. Thomas reminded the Committee that the content of communication, rather than the type of communication, dictates the classification a record is given. The Task Force supported this current provision.

Rep. Hutchings asked if "in connection with the conduct of the public's business" was defined in the proposed legislation.

Mr. Weeks pointed out that GRAMA applies to every level of government in the state and responded that case law and decisions by the records committee define the term, but that there was nothing in GRAMA that defined it specifically.

Rep. Fisher stated that her main concern with GRAMA was that the media and public knew that the Legislature is not trying to hide anything from the public.

Sen. Thomas explained that the draft legislation titled "GRAMA Appeals Process and Document Request Amendments" deals mostly with the process of providing documents. He added that in order to establish

more consistent rulings, this bill revises the appeals process so that it will now start with the State Records Committee and continue to the district court, if requested.

Rep. Aagard described the draft legislation "Access and Fee Amendments to Government Records Access and Management Act." He outlined when a government entity can disclose a record that is "private" or "protected." He pointed out that records now classified as "public" will still be "public." He said that an individual's home address, phone number, and mobile phone number are "protected" records, subject to some specific provisions. He explained these "protected" records can be released if doing so is mutually beneficial to the subject of the record, the government entity, and the public. He said that the bill provides that a government entity is not required to manipulate data into a new format in response to requests. Further, unnecessarily duplicated requests for a record which is already included in the public record do not have to be fulfilled under the draft legislation. He stated that the Task Force recognized the value added to raw data once reformatted so it would allow government entities to charge reasonable additional fees for this information. He further explained that the bill would prevent price gouging and stifling competition with private business. He stated that it also includes provisions preventing third party contractors from disclosing personal information.

Sen. Hellewell thanked Sen. Thomas and Rep. Aagard for their report.

4. State "Risk Management Fund" Coverage to Nonstate Entities--Sunset Review

Mr. Alan Edwards, Director, Division of Risk Management, explained that provisions in statute which allow some non-state agencies, including school districts and health departments, to participate in the Risk Management Fund are up for sunset review. He noted that the relationship with school districts has been positive and mutually beneficial and consequently recommended that the program be renewed for school districts. He explained that health departments have not participated in the program for the past two years because the counties have covered them. He recommended that the provision in the statute covering health departments be allowed to sunset.

Rep. Buttars asked for clarification as to whether school district foundations are government or private entities.

Mr. Edwards said the Division looks for foundations that are controlled by the districts.

Mr. Christensen explained that two sections will sunset in July 2006 if the Committee does not act. He reviewed two options: a motion to reauthorize 63A-4-204 for another number of years or to remove that section from the sunset act entirely. He explained that the Committee could make similar motions or no motions on 63-4a-20 and added that the motions would be reported to the Legislative Management Committee, who would prepare a sunset bill for the Legislature.

MOTION: Rep Buttars moved to reauthorize 63A-4-204 on school districts for an additional ten years. The motion passed unanimously, with Sen. Goodfellow absent for the vote.

MOTION: Rep. Bowman moved to allow 63A-4-205 on local health departments to sunset. The motion passed unanimously, with Sen. Goodfellow absent for the vote.

5. Other Items / Adjourn

Rep. Michael Morley explained that the Utah Seismic Safety Commission was directed to report its findings to the Committee, primarily with respect to unreinforced masonry and stated the Commission's desire to make a resolution.

Mr. Barry Welliver, Chairman, Utah Seismic Safety Commission, distributed "Resolution Recognizing the Unreinforced Masonry Hazard in Utah." He stated that hazardous unreinforced masonry buildings exist throughout the state and that most of the population lives close to the fault line. He explained that the Commission proposed an inventory of unreinforced masonry structures in the state. Its purpose is to raise awareness and to propose solutions to the problem.

Sen. Hillyard asked for a time frame, a cost estimate, and a plan for how to respond to findings of the inventory.

Mr. Welliver indicated that no estimate had been made. He added that because of the great hazard, the Commission would suggest beginning immediately on simple improvements that could be made quickly.

Rep. Morley explained that it was not the intent of the resolution to seek funds at that point. He wanted to educate private individuals as to what may be done to improve safety and to help prioritize the structures that need attention.

Sen. Hillyard pointed out that properties that were identified as hazardous may create an immediate liability for property owners.

Rep. Fisher asked what the criteria for inventorying these buildings would be.

Mr. Welliver said that the building class "unreinforced masonry" was the criteria. He added that public buildings and private buildings with public access would be considered.

Rep. Hutchings commented that the Commission should be careful with the intent and release of data. He warned that if schools were identified as "unsafe," it would create a scare among parents.

Rep. Morley explained that most of the school districts are already aware of the classification of their buildings and many are doing seismic retrofits.

Rep. Buttars asked if property owners would be notified and if they could opt out of the inventory. He also suggested educating property owners about the seismic safety of their structures.

Mr. Welliver explained that the inventory would be conducted through "rapid visual screening" to decide only how many unreinforced masonry buildings exist in the state, not to identify specific buildings as unsafe.

Rep. Mathis suggested structuring the tax code to encourage property owners to voluntarily make retrofits prior to the inventory.

Rep. Morley responded that until there is some indication of the scope of the problem, the cost implications imposed on the state would be unknown. Also, the survey would not list certain properties, but would look for the broad picture to bring back to the Committee for further direction.

Rep. Barrus commented that he is opposed to the study because he felt it would create accountability for property owners, devalue property, and because it was an intrusion of government into personal property.

Rep. Fisher suggested offering the results of the inventory to interested property owners rather than identifying properties as unsafe.

Sen. Hellewell asked for clarification as to the purpose of the resolution.

Mr. Welliver said the Commission wanted support from the Legislature in the form of a legislative resolution.

MOTION: Rep. Fisher moved to adjourn the meeting. The motion passed unanimously.

Chair Hellewell adjourned the meeting at 11:08 a.m.